

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATIONS No 1337 & 1338 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BANASKANTHA DISTRICT PANCHAYAT

Versus

VIKAS CONSTRUCTION COMPANY

Appearance:

MR DC DAVE for Petitioner

UNSERVED-EXPIRED (N) for Respondent No. 1, 5

Mr H J Shah, for Respondent No. 2 and 4

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 05/05/98

ORAL JUDGEMENT (Common)

Rule.

Heard Mr D C Dave, learned Advocate for the petitioner and Mr H J Shah, learned Advocate for respondents No.2 and 4. Respondents No.1, 3 and 5 have not been served. They were not served before the trial court as well and the controversy in the present Revision

Application pertains to service on them. In view of this, the present Revision Application can be disposed of in their absence. It will however, be open for them to apply for the review of the order, if they so desire.

2. The petitioner-Banaskantha District Panchayat filed Civil Suit in the Court of Civil Judge (SD), Palanpur seeking a decree for a sum of Rs.89,000,440/with interest thereon. A reading of the impugned order dated 31.7.1997 indicates that the petitioner failed in producing evidence and also in filing the process fee for issuing process to defendants No.1, 3 and 5. The learned Advocate states that the plaintiff could not produce the evidence as the concerned Engineer had expired. It is submitted that the plaintiff-petitioner wants to examine the other Engineers in support of its case. Without going into the merit of the case, ends of justice would meet if the petitioner is permitted to produce evidence and also allow to pay the process fee for service on defendants No.1, 3 and 5 on payment of cost. In view of the aforesaid, both the Revision Applications are allowed and the order dated 31.7.1997 passed below Exh.89 and 90 are quashed and set aside. The petitioner's application Exh. 89 and 90 are granted on payment of cost of Rs. 1,000/- on each applications. Rule made absolute to the aforesaid extent.

...

msh